

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Closed Captioning of Video Programming	)	CG Docket No. 05-231
	)	
Telecommunications for the Deaf and Hard of	)	
Hearing, Inc.	)	
Petition for Rulemaking	)	
	)	
	)	

**PETITION FOR WAIVER OF REGISTRATION AND CERTIFICATION REQUIREMENT**

The Alliance for Community Media (ACM) respectfully requests the Consumer and Governmental Affairs Bureau waive the requirement of Section 79.1(m) of the Commission’s rules<sup>1</sup> as it would apply to registration and certification by Public, Educational and Government (PEG) Access video producers who distribute video programs over PEG or other exempt channels. The waiver will ensure that the intent of the rule will not be undermined by significant clutter it may otherwise generate and that the rule will not burden tens of thousands of PEG access video program producers across the United States by requiring them to register and certify yearly with the Commission.

ACM is a national nonprofit membership organization representing over 3,000 PEG access organizations and community media centers, and PEG programmers throughout the nation. Those PEG organizations and centers include more than 1.2 million volunteers and 250,000 community groups that provide PEG access television programming in local communities across the United States.

---

<sup>1</sup> 47 CFR §79.1(m). The rule was adopted in the Second Report and Order on Closed Captioning of Video Programming (CG DN 05-231 or “Order”), and will go into effect on September 22, 2016. 81 FR 57473

As ACM noted in our March 28, 2016 letter to the Commission (a copy of which is attached), the definition of Video Program Owners (VPOs) under the Order encompasses all producers of video programming on Multichannel Video Programming Distribution (MVPD) systems, including those producers on PEG Access channels across the United States. Concluding that all VPOs as video programmers should register and certify their exemption status with regard to Commission's captioning rules, the Rule as it currently stands will require all PEG program producers in the United States to register with the Commission<sup>2</sup>.

This is not an insignificant number. For example, in the Washington DC area alone, the requirement would compel the registration and yearly certification of approximately 3300 Public Access program producers on just four of the area's access channels (Montgomery Community Media, Fairfax Public Access, Arlington Independent Media and DCTV). This would present a significant burden to the organizations administering these channels and to the individuals and groups that produce programming. When these numbers are multiplied across the United States, there will be a significant burden placed not only on PEG programmers nationwide, but also on the FCC's registration system.

We do not dispute the usefulness of registration and certification of exemption status for PEG channels as put forth by the Order. ACM believes this will provide consumers useful and necessary information and will speed the resolution of complaints to Video Program Distributors (VPDs) and the Commission. However, the registration and certification of these video program owners – most of whom are non-professionals and average citizens who merely wish to use PEG Access channels in their communities - is needless if they are distributing programs on channels that are exempt from captioning under the Commission's rules, as many PEG channels are<sup>3</sup>.

---

<sup>2</sup> 81 FR 57476-77

<sup>3</sup> 47 CFR 79.1.d. PEG channels generally fall within one or more of the statutory exemptions listed, including specifically "Channels/Streams producing revenue less than \$3,000,000."

## CONCLUSION

We ask the Bureau act promptly to grant this requested waiver to ensure there is no significant burden placed on PEG Access channels and producers, and so there is no confusion about implementation of the new system among PEG Access channels. This will help the successful implementation of the registration and certification process set forth in the Order. It is our hope this will improve the consumer complaint process and will provide PEG Access channels significant information about the needs of the consumers they serve.

Respectfully,

A handwritten signature in black ink, appearing to read 'MW', followed by a long horizontal flourish.

Michael Wassenaar

President & CEO

Alliance for Community Media

4248 Park Glen Road

Minneapolis, MN 55416

(612) 298-3805

March 28, 2016

Ms. Marlene H. Dortch

Secretary

Federal Communications Commission

445 12<sup>th</sup> Street, SW

Washington, DC 20554

Re: Second Report and Order on Closed Captioning of Video Programming (CG DN 05-231)

Dear Ms. Dortch,

We are writing to state a concern about the Second Report and Order on Closed Captioning of Video Programming (“Order”) as it relates to Public Access television channels and producers.

While we recognize the reason to have Public, Educational and Government (PEG) Access channels that are exempt from captioning requirements register contact information and report their exempt status on a yearly basis to the Commission, we believe the Order will have an unintended consequence of requiring needless reporting for tens of thousands of Public Access producers throughout the United States, and will create a significant and unnecessary burden on the FCC’s system.

We expect that the vast majority of PEG channels will certify that they have a statutory exemption under the rules. We recognize that there will be benefits for the handling of consumer complaints on captioning under the Order. Ensuring a point of contact for video programmers such as PEG Access channels will be an additional benefit.

However, the Order’s definition of “video program owners” [VPOs] presents a difficulty for the Commission and for access channels. The Order concludes that “the term video programmers includes all VPOs” (paragraph 12). This definition may work well for the general purposes of the Order, but has the unintended consequence of including *all Public Access producers* throughout the United States as video programmers.

This could mean tens of thousands of ordinary citizens and organizations – Cub Scouts, gospel choirs, political candidates, and community groups of every possible type – will be required to certify to the Commission on a yearly basis that their programming is exempt due to their distribution on exempt PEG channels. As a practical matter, this will be difficult to administer in Public Access production centers, and will needlessly clutter the FCC's records. We understand that this is not what is intended by the Order.

We request that the Commission determine that Public Access producers are exempt from registration and certification as long as they distribute their programs on exempt PEG channels.

We appreciate your attention to the matter and to the Commission's dedication to access issues.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Wassenaar', with a long horizontal flourish extending to the right.

Mike Wassenaar

President & CEO

Alliance for Community Media

CC: Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Commissioner Michael O'Rielly